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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,864	08/02/2001	Kimberly J. Hood	BEH001-056	4182

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EXAMINER	
PEREZ DAPLE, AARON C	

ART UNIT	PAPER NUMBER
2121	

DATE MAILED: 02/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/919,864	Applicant(s) HOOD ET AL.	
	Examiner Aaron Perez-Daple	Art Unit 2121	

-- The MAILING DATE of this communication appears on th cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 January 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This Action is in response to Reconsideration filed 1/26/04, which has been fully considered.

2. Claims 1-20 are presented for examination.

3. This Action is made FINAL.

Response to Arguments

Examiner's Interpretation

4. Applicant's primary argument with respect to the applied prior art is that the art fails to disclose or suggest "an advertising mode." Applicant asserts that the Examiner is reading the claims "in a vacuum" and has failed to consider the specification. Although a means plus function format has been used with respect to the "control means", these means refer to a microprocessor, memory and controls [Fig. 1], which are taught by the prior art.

The terms "advertising mode" and "advertising information" are not specifically defined in the specification such as to distinguish over the prior art. The discussions of the terms "advertising mode" and "advertising information" in the specification appear to be intentionally broad and open-ended [see, for example, the first full paragraph of page 7]. In the absence of a clear definition, the Examiner finds that the broadest reasonable interpretation includes any display in a household appliance which provides information concerning the household appliance. Merely plugging in a conventional appliance taught by the prior art would provide a display with information (e.g. menu features, etc.) for educating the consumer about the appliance. Moreover, simulation could be performed by making selections from the menu and then turning the appliance off or clearing the selection.

112 Rejections

5. The rejections of claims 4, 5 and 18-20 under 35 U.S.C. 112, first paragraph and second paragraph, are hereby withdrawn in view of Applicant's arguments, which are found persuasive. The specification is enabling for simulation of the device.

However, the Examiner finds that any form of simulation, including partial operation of the device, meets the "simulation" limitation of the claims. Applicant is reminded that limitations from the specification may not be read into the claims [see MPEP 2111]. If Applicant intends to limit the "simulation" as occurring only within the display, the claims should be amended accordingly.

102 Rejections

6. Applicant's arguments filed 1/26/04 have been fully considered but they are not persuasive.

7. With respect to the rejection of claims 1, 8 and 11 as anticipated by Klausner (US 5,839,097), the Examiner maintains the above interpretation. Applicant further asserts that it should be evident that the claimed invention is to be used in a store and is not needed once the device is purchased. The Examiner finds that this limitation is not in the claims, and therefore the argument is moot. However, the Examiner notes that nothing would prevent plugging in the prior art devices in a store, under the interpretation presented above. Claims 1, 8 and 11 are therefore properly rejected under 35 U.S.C. 102(b) as anticipated by Klausner.

8. With respect to Blair (US 5,502,265), in order to overcome the rejection under 35 U.S.C. 102(e), Applicant must provide a sworn statement that the subject matter of the Blair

reference relied on for the rejection was conceived of or invented by the common inventor(s). Applicant has failed to provide such a statement. The relevant section of MPEP 706.02(b) is provided below:

> A rejection based on 35 U.S.C. 102(e) can be overcome by:
>
> (A) Persuasively arguing that the claims are patentably distinguishable from the prior art;
>
> (B) Amending the claims to patentably distinguish over the prior art;
>
> (C) Filing an affidavit or declaration under 37 CFR 1.132 showing that the reference invention is not by "another." See MPEP § 715.01(a), § 715.01(c), and § 716.10;
>
> (D) Filing an affidavit or declaration under 37 CFR 1.131 showing prior invention, if the reference is not a U.S. patent **>or a U.S. patent application publication< claiming the same patentable invention as defined in 37 CFR 1.601(n). See MPEP § 715 for more information on 37 CFR 1.131 affidavits. When the claims of the reference >U.S. patent or U.S. patent application publication< and the application are directed to the same invention or are obvious variants, an affidavit or declaration under 37 CFR 1.131 is not an acceptable method of overcoming the rejection. Under these circumstances, the examiner must determine whether a double patenting rejection or interference is appropriate. If there is a common assignee or inventor between the application and patent, a double patenting rejection must be made. See MPEP § 804. If there is no common assignee or inventor and the rejection under 35 U.S.C. 102(e) is the only possible rejection, the examiner must determine whether an interference should be declared. See MPEP Chapter 2300 for more information regarding interferences;

Under the Examiner's interpretation of the claims presented above, the Examiner finds that claims 1-8, 11-14, 18 and 19 are properly rejected under 35 U.S.C. 102(e) as anticipated by Blair.

103 Rejections

9. The rejection of claim 20 under 35 U.S.C. 103(a) as obvious over Blair is hereby withdrawn.

10. With respect to the rejection of claims 1, 8, 11, 14, 15 and 18-20 as unpatentable over Abrams (US 6,587,739) in view of Klausner, the rejection is maintained under the interpretation presented above. The Examiner further notes that any kind of advertising information could be downloaded from the internet, including information for educating the consumer about the appliance itself. Such a modification would be obvious to one of ordinary skill in the art, since the device of Abrams is intended to provide information regarding the use of various appliances. Applicant further asserts that it should be evident that the claimed invention is to be used in a store and is not needed once the device is purchased and placed within a household. The Examiner finds that this limitation is not in the claims, and therefore the argument is moot.

Applicant further asserts that the relative size of the device taught by Abrams renders the combination non-obvious. The Examiner finds that Abrams does not specify the size of the device, which merely needs to be large enough to contain the electronics and display. Such a device could easily be made to fit within an appliance, such as a washing machine. The figures (e.g. Fig. 5B) are merely illustrative and not drawn to scale.

For all of these reasons, the Examiner finds that claims 1, 8, 11, 14, 15 and 18-20 are properly rejected as unpatentable over Abrams (US 6,587,739) in view of Klausner.

11. The rejection of claims 9, 10, 16 and 17 as unpatentable over Abrams in view of Klausner and in further view of Guheen (US 6,519,571) is similarly maintained for the reasons presented above.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Perez-Daple whose telephone number is 703-305-4897. The examiner can normally be reached on 9am - 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anil Khatri can be reached on 703-305-0282. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

2/24/04

Aaron Perez-Daple

GEORGE B. DAVIS
PRIMARY EXAMINER